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In re Application of :
Scott W. Lewis :
Serial No. 07/977,033 :
Filed: February 11, 1993 :
Attorney Docket No. JAS-131 :
: LETTER

This is in response to the communication filed April 8, 1994, by facsimile transmission, in response to a Decision mailed November 17, 1993, in the above-identified application.

Petitioner argues that a communication in response to the Decision mailed November 17, 1993, was timely filed on February 14, 1994. As evidence thereof, petitioner submitted a copy of his postcard receipt which acknowledges receipt of a communication, including a supplemental oath and declaration, a petition for extension of time and a \$55.00 check, on February 14, 1994. Petitioner requests that the communication, including the supplemental oath and declaration, the petition for extension of time and the \$55.00 check, be considered as being filed on February 14, 1994 and that the application be accorded a filing date of February 11, 1993, the date of receipt of the drawing of Figure 2C. Copies of the supplemental oath and declaration, the petition for extension of time and the \$55.00 check were also submitted.

Upon review of the record, no supplemental oath and declaration, petition for extension of time and a \$55.00 check deposited on February 14, 1994, have been located among the application papers. However, a review of the finance records for this application reveals that the \$55.00 fee for the petition for extension of time has been received. Therefore, the evidence is convincing that the supplemental oath and declaration, the petition for extension of time and the \$55.00 check were filed on February 14, 1994, and were subsequently misplaced in the PTO. Accordingly, the communication, including the supplemental oath and declaration, the petition for extension of time and the \$55.00 check, are considered as though they were filed on February 14, 1994.

A further review of the record reveals that the supplemental declaration is in compliance with the requirement set forth on page 2 of the Decision mailed November 17, 1993.

In view of the above, the request to accord the application a filing date of February 11, 1993, the date of receipt of a drawing containing Figure 2C, is granted.

The application is being returned to Application Division for further processing with a filing date of February 11, 1993, using the application papers filed November 16, 1992 and the one (1) sheet of drawings containing Figure 2C filed February 11, 1993, and an indication on the file wrapper that ten (10) sheets of drawings were present on filing.

Fred A. Silverberg

Fred A. Silverberg
Special Program Examiner
Office of the A/C for Patents

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